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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/679,702	10/03/2003	Carroll R. Thompson	WEAT/0288	9622

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WILLIAM B. PATTERSON
MOSER, PATTERSON & SHERIDAN, L.L.P.
Suite 1500
3040 Post Oak Blvd.
Houston, TX 77056

EXAMINER

GREENHUT, CHARLES N

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3652

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12/12/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/679,702	Applicant(s) THOMPSON, CARROLL R.	
	Examiner Charles N. Greenhut	Art Unit 3652	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 31 October 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2,5,6,8-10,12 and 33-67 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 56-60 and 62-66 is/are allowed.
- 6) ☒ Claim(s) 2,5,6,8-10,12 and 33-55 is/are rejected.
- 7) ☒ Claim(s) 61 and 67 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 01 April 2005 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) ☐ Notice of References Cited (PTO-892) | 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) ☐ Notice of Informal Patent Application |
| 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) ☐ Other: _____ |

I. Request for Continued Examination

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 10/31/07 has been entered

II. Drawings

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the engaging the second end...while engaged with the carriage of claim 61, must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.
2. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not

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accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

III. Claim Objections

1. In claim 40, line 14, "pivoting...in a horizontal plane" should apparently read - -moving...in a horizontal direction - - (Cf. claims 56 & 67) since the second end of the tubular, pivoting about a point of suspension vertically thereabove, cannot be maintained in a horizontal *plane* during pivot.
2. In claim 67, step 9, "fig" should read - - rig - -

IV. Claim Rejections 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. Claim 2, 5, 6, 8-10, 33-39, 47, and 50-55 are rejected under 35 U.S.C. 103(a) as being unpatentable over PIETRAS in view of NEILON (US 3,795,326 A).
 - 1.1. With respect to claim 2, 5, 6, 8-10, and 50-55, PIETRAS discloses at least one arm (13) coupled to a body (section of 13 at pivot axis at 14), the body coupled to the trough (4), the arm movable in two or more planes (cf. Fig. 8-9 and Col. 3 Li. 29-30), the body movably coupled to the trough, the tubular (9) retained between the body and at least one arm (13), the arm actuatable to limit movement of the tubular (Fig. 3) the arm (13) having a stop member (19) at a distal end, in the raised position (Fig. 6)

a distal end of the arm is located on the top side of the trough (4) configured to support the tubular (9), though not specified in PIETRAS pins are well known pivot members of pivoting elements and it would have been obvious to one having ordinary skill in the art to employ a pin for the predictable result of providing an axis of rotation. PIETRAS fails to disclose a two-armed gripper wherein the arms move in two planes relative to the body. NEILON teaches two arms (122)/(116), movement in two planes (about 123 & 38) relative to the body (34), controlling movement of the tubular (24), actuatable between an open and closed position (Fig. 3), each arm having a stop member (126)/(118) adapted to retain the tubular (24) between the two arms (122)/(116) when the arms are in a closed position. It would have been obvious to one of ordinary skill in the art to modify PIETRAS with the gripper of NEILSON in order to constrain the tubular.

1.2. With respect to claims 12, and 33 PIETRAS fails to disclose the two armed gripper.

NEILON teaches the two arms actuatable between a raised and lowered position (via 38 or 88/90), the two arms adapted to control the movement of the tubular (24) when the arms are in the raised position and a first actuator (124). It would have been obvious to one of ordinary skill in the art to modify PIETRAS with the gripper of NEILON in order to constrain the tubular.

1.3. With respect to claims 34-39, 47 PIETRAS additionally discloses a second actuator (14) and a third actuator (rotating the 90°), a lowered position with the arm substantially parallel to the trough (Fig. 7) and a raised position with the arm substantially perpendicular (Fig. 9), the body movable to align the tubular with the

wellbore, the trough cradling and guiding the tubular, the body controlling movement of the second end of the tubular (Fig. 9).

2. 4. Claims 40-46 and 48-49 are rejected under 35 U.S.C. 103(a) as being unpatentable over PIETRAS in view of BURNS (US 5,609,457).

2.1. With respect to claim 40 and 45, PIETRAS discloses providing a carriage (4), and tubular handling apparatus (13), transporting a tubular (9) from horizontal (Fig. 1) to a position where the wellbore end of the carriage (4) is adjacent the wellbore (Fig. 4), lifting the first end of the tubular off the carriage (Fig. 6-7), engaging the second end of the tubular with the arm (13), pivoting the body relative to the carriage (4) about an axis which is at an angle relative to a longitudinal axis of the carriage, to align the second end of the tubular (Fig. 8-9), pivoting in a substantially horizontal second plane to release the tubular (Col. 3 Li. 29-30). PIETRAS does not describe in detail the construction of member (13) and therefore fails to teach arms which pivot relative to the body. BURNS teaches providing a tubular engaging member (Fig. 5) having arms (53) which pivot relative to the body (25). It would have been obvious to one of ordinary skill in the art to modify PIETRAS with the two or more arms of BURNS in order to better control the tubular. PIETRAS also fails to describe employing the 90° drive to align the tubular in the horizontal plane. It would have been obvious to one having ordinary skill in the art to employ the drive for this purpose, which it is clearly capable.

2.2. With respect to claims 41-44, 46, 48-49, PIETRAS additionally discloses providing the carriage configured to receive the tubular along the longitudinal axis (Fig. 2),

running the second end of the tubular along the carriage while lifting (cf. Fig. 6-7). BURNS additionally teaches that the first plane may be vertical (10''), or parallel with the carriage (Fig. 2), and the arms pivoting away from each other (cf. fig 6-5), guiding the tubular between a stop member (58) of the arms and the body (76), and actuating the body (Fig. 7). It would have been obvious to one of ordinary skill in the art to modify PIETRAS with the two or more arms of BURNS in order to better control the tubular.

V. Allowable Subject Matter

1. Claims 56-60 and 62-66 are allowed. Claim 61 and 67 are objected to for the informalities indicated above.

1.1. With respect to claim(s) 56, 64, and 67, the method and apparatus for positioning a tubular above a wellbore comprising the claimed carriage and hoisting member in combination with the claimed alignment apparatus attached to the carriage having the unique features enabling entrapment and alignment of the tubular in both a vertical plane and horizontally, perpendicular to the carriage, is not taught or fairly suggested by the prior art of record.

VI. Response to Applicant's Arguments

Applicant's arguments entered 10/31/07 have been fully considered but are not persuasive.

1. Applicant argues that claim 2 is not rendered obvious by PIETRAS in view of NEILON because there is no motivation to combine the references. This argument is not persuasive. It is well-known that a tubular may be controlled better by two arms as opposed to one. Such restraint would require a mere duplication of parts of PIETRAS. NEILON is cited as an

example of using two arms to control the end of a tubular being removed from a handling apparatus and suspended above a well-bore. One would be motivated to make such a modification in order to ensure better control of the lower end of the tubular.

2. Applicant argues that claim 2 is not rendered obvious by PIETRAS in view of NEILSON because neither reference teaches both arms movable in two or more planes relative to the body. This argument is not persuasive. PIETRAS does not elaborate on the details of the swivel drive connection but requires that there be movement in two planes*. Firstly, it is well-known that such a drive consists of more than a single part, specifically there must be at least one stationary and one moving part. However, it is not explicitly stated in PIETRAS what components move relative to what other components to produce the motion described. One of ordinary skill in the art would, however, know how to implement a requirement for pivotability as required by PIETRAS. An example is shown in NEILSON, which allows (pivoting) movement in different planes by providing a first pivot axis at (38) and a second at (123), relative to the carriage/body (34). The PIETRAS motion, is substantially the same as that described by Applicant, albeit with only a single arm. The specifics of effectuation such motion are omitted, however NEILSON provides an example of how such motion may be effectuated that, when viewed in light of PIETRAS, is sufficient to meet the claim limitations.

- 2.1. *Applicant argues that PIETRAS does not necessarily require movement in two planes because, Applicant contends, the "90° rotation returns the lever to the first position." This is not an accurate reading of PIETRAS. The 90° rotation of PEITRAS occurs "*so that the stabbing lever may be returned to is first position*" (Col. 3 Li. 29-

30 *Emphasis supplied*). Absent such rotation the stabbing arm would not be able to return to its original position due to an interference with rollers (19).

3. Applicant argues that claim 40 is not rendered obvious by PIETRAS in view of BURNS cause neither reference teaches both arms movable in two or more planes relative to the body. This argument is not persuasive. Again, PIETRAS does not elaborate on the details of the swivel drive connection but requires that there be movement in two planes*(See 2.1 above). Firstly, it is well-known that such a drive consists of more than a single part, specifically there must be at least one stationary and one moving part. However, it is not explicitly stated in PIETRAS what components move relative to what other components to produce the motion described. One of ordinary skill in the art would, however, know how to implement a requirement for pivotability as required by PIETRAS. The PIETRAS arm already pivots in two planes, however there is insufficient detail in that reference to point to a "body" which the arms pivot relative to. BURNS is cited merely as an example of how the arms (53) may be made to pivot relative to the body (25). BURNS is cited only for this aspect of relativity and is not required to additionally teach pivoting in a second axis because the primary reference PIETRAS already discloses this motion.

VII. Conclusion

1. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Charles N. Greenhut whose telephone number is (571) 272-1517. The examiner can normally be reached on 7:30am - 4:00pm EST.

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2. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Saul Rodriguez can be reached at (571) 272-7097. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.
3. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

CG

CB


PATRICK MACKEY
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600